

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

DR. JOLENE MITCHELL,

Plaintiff,

vs.

SANFORD CLINIC, INC.,

Defendant.

CIV. 19-4150

ANSWER

Defendant Sanford Clinic, Inc., by and through its counsel of record, Mark J. Arndt and Evans, Haigh & Hinton, L.L.P., for its Answer to Plaintiff's Complaint, states and alleges as follows:

1. Defendant Sanford Clinic denies each and every matter, allegation, and thing alleged in Plaintiff's Complaint except as specifically admitted or qualified herein.
2. Responding to paragraph 1 of Plaintiff's Complaint, Defendant Sanford Clinic admits that Dr. Mitchell has completed a residency in occupational and environmental medicine, is board certified in occupational and environmental medicine, and has a master's degree in occupational health. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the remaining allegations in paragraph 1 and therefore denies the same.
3. Defendant Sanford Clinic admits the allegations contained in paragraph 2 of Plaintiff's Complaint.
4. Defendant Sanford Clinic states that Paragraphs 3 and 4 of Plaintiff's Complaint contain conclusions of law to which no response is required. Defendant Sanford Clinic admits only that this Court has jurisdiction over the Plaintiff's claims and that the Complaint purports to

assert claims under Title VII of the Civil Rights Act, Title I of the Americans with Disabilities Act, the South Dakota Human Relations Act, and common law, but denies that it has engaged in any wrongdoing or that Plaintiff is entitled to any relief whatsoever.

5. Responding to paragraph 5 of Plaintiff's Complaint, Defendant Sanford Clinic admits that venue is proper in the Southern Division of the District of South Dakota, but denies that it has engaged in any wrongdoing or unlawful practices, or that Plaintiff is entitled to any relief whatsoever. Defendant denies any and all remaining allegations contained in Paragraph 5 of Plaintiff's Complaint.

6. Defendant Sanford Clinic admits the allegations contained in paragraphs 6 and 7 of Plaintiff's Complaint.

7. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations in paragraph 8 of Plaintiff's Complaint and therefore denies the same.

8. Defendant Sanford Clinic admits the allegations contained in paragraphs 9, 10, and 11 of Plaintiff's Complaint.

9. Responding to paragraph 12 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that when Dr. Mitchell expressed an interest in an occupational medicine physician opportunity at Sanford, she had completed her residency and was board certified in occupational and environmental medicine. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the remaining allegations in paragraph 12 and therefore denies the same.

10. Defendant Sanford Clinic admits the allegations contained in paragraph 13 of Plaintiff's Complaint.

11. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 14 of Plaintiff's Complaint and therefore denies the same.

12. Responding to paragraphs 15 and 16 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell initially expressed an interest in an occupational medicine physician opportunity in Fargo, North Dakota, and that during the discussions regarding that opportunity, Sanford informed Dr. Mitchell of an opening in the Sioux Falls occupational medicine clinic for a medical director position, but denies any and all remaining allegations contained in paragraph 15 and 16 of Plaintiff's Complaint.

13. Defendant Sanford Clinic admits the allegations contained in paragraphs 17 and 18 of Plaintiff's Complaint.

14. Responding to paragraph 19 of Plaintiff's Complaint, Defendant Sanford Clinic admits that when Dr. Mitchell was hired, Dr. Joel Blanchard was the enterprise medical director for Sanford Health occupational medicine clinics and that Dr. Blanchard is board certified in family practice. To the extent Plaintiff alleges that Dr. Blanchard does not have the training, experience, or qualifications necessary for his position, those allegations are denied.

15. Defendant Sanford Clinic admits the allegations contained in paragraphs 20 and 21 of Plaintiff's Complaint.

16. Responding to paragraph 22 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Jack Johnson became the director of clinic operations at the occupational medicine clinic in Sioux Falls in early 2017 and was responsible for overseeing general operations of the clinic, but denies any and all remaining allegations contained in paragraph 22 of Plaintiff's Complaint.

17. Responding to paragraph 23 of Plaintiff's Complaint, Defendant Sanford Clinic admits that Dr. Blanchard and Ms. Murdock made Dr. Mitchell aware, before she started, that the previous medical director of the clinic had been asked to step down and was still employed at the clinic, discussed with Dr. Mitchell what impact those dynamics might have if she were to be hired as medical director, but denies any and all remaining allegations contained in paragraph 23 of Plaintiff's Complaint.

18. Defendant Sanford Clinic admits paragraph 24 of Plaintiff's Complaint.

19. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 25 of Plaintiff's Complaint and therefore denies the same.

20. Defendant Sanford Clinic admits the allegations contained in paragraphs 26 and 27 of Plaintiff's Complaint.

21. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 28 of Plaintiff's Complaint and therefore denies the same.

22. Defendant Sanford Clinic admits the allegations contained in paragraphs 29 and 30 of Plaintiff's Complaint.

23. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 31 of Plaintiff's Complaint and therefore denies the same.

24. Responding to paragraph 32 of Plaintiff's Complaint, Defendant Sanford Clinic admits that the Clinical Needs Assessment prepared by Dr. Mitchell identified areas for improvement Dr. Mitchell determined were security related, including panic buttons and security

cameras, but lacks sufficient information to admit or deny the remaining allegations contained in Paragraph 32 of Plaintiff's Complaint and therefore denies the same.

25. Defendant Sanford Clinic denies the allegations contained in paragraph 33 of Plaintiff's Complaint.

26. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations in paragraph 34 of Plaintiff's Complaint.

27. Defendant Sanford Clinic denies any and all allegations contained in paragraphs 35 and 36 of Plaintiff's Complaint, and specifically denies that Dr. Blanchard and Mr. Johnson did not appropriately respond any report of threatening or violent patients.

28. Responding to paragraph 37 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell raised security concerns to Dr. Blanchard and to Mr. Johnson, but denies any and all remaining allegations contained in paragraph 37 of Plaintiff's Complaint.

29. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 38 of Plaintiff's Complaint and therefore denies the same.

30. Responding to paragraphs 39 and 40 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that there was an incident on January 25, 2018 during which Dr. Mitchell reported that she sustained an injury when she was examining a patient, and that the injury report speaks for itself. Defendant Sanford Clinic lacks sufficient knowledge or information to admit or deny the remaining allegations contained in Paragraphs 39 and 40 of Plaintiff's Complaint and therefore denies the same

31. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 41 of Plaintiff's Complaint and therefore denies the same.

32. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 42 of Plaintiff's Complaint and therefore denies the same.

33. Responding to paragraph 43, Defendant Sanford Clinic admits only that Dr. Mitchell informed Dr. Blanchard and Jack Johnson that she was pregnant, but denies any and all remaining allegations contained in paragraph 43 of Plaintiff's Complaint.

34. Defendant Sanford Clinic admits the allegations contained in paragraph 44 of Plaintiff's Complaint.

35. Responding to paragraph 45 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that the patient either pushed or punched Dr. Mitchell in the abdomen after Dr. Mitchell attempted to retrieve paperwork from the patient and would not permit the patient to leave the clinic, but is without sufficient knowledge or information to either admit or deny the remaining allegations contained in paragraph 45 of Plaintiff's Complaint and therefore denies the same.

36. Responding to paragraph 46 of Plaintiff's Complaint, Defendant Sanford Clinic admits that Dr. Mitchell obtained medical care as a result of the incident, but Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the remaining allegations contained in paragraph 46 of Plaintiff's Complaint and therefore denies the same.

37. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 47 of Plaintiff's Complaint and therefore denies the same.

38. Responding to paragraph 48 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that when Mr. Johnson learned of the incident, he reminded Dr. Mitchell that she should not put herself in harm's way when interacting with a disruptive patient by attempting to retrieve paperwork or preventing the patient from leaving the clinic, but denies any and all remaining allegations contained in paragraph 48 of Plaintiff's Complaint.

39. Defendant Sanford Clinic admits the allegations contained in paragraph 49 of Plaintiff's Complaint.

40. Responding to paragraphs 50 and 51 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that on or about July 21, 2018, there was a domestic dispute in the clinic parking lot involving a clinic patient, but is without sufficient knowledge or information to either admit or deny the remaining allegations contained in paragraphs 50 and 51 of Plaintiff's Complaint and therefore denies the same.

41. Responding to paragraph 52 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Mr. Johnson was on PTO on the day the domestic incident in the parking lot occurred. To the extent Plaintiff alleges that Jack Johnson neglected his duties by not being present to address the situation, those allegations are denied.

42. Responding to paragraph 53 of Plaintiff's Complaint, Defendant Sanford Clinic admits that there was not a security guard or security employee stationed specifically at the clinic, but denies any and all remaining allegations contained in paragraphs 53 of Plaintiff's Complaint.

43. Responding to paragraph 54 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that the staff called 911 and that Dr. Mitchell intervened in the domestic incident in the parking lot. To the extent Dr. Mitchell alleges that she provided medical care, those allegations are denied and Defendant Sanford Clinic denies any and all remaining allegations contained in paragraph 54 of Plaintiff's Complaint.

44. Responding to paragraph 55 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Mr. Johnson informed Dr. Mitchell that she should not have attempted to intervene in the domestic dispute in the clinic parking lot, but denies any and all remaining allegations contained in paragraph 55 of Plaintiff's Complaint.

45. Responding to paragraphs 56, 57, and 58 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell sent the July 24, 2018 email, which is attached as Exhibit A to her Complaint, and states that the email speaks for itself. Defendant Sanford Clinic denies any and all remaining allegations contained in paragraphs 56, 57 and 58 of Plaintiff's Complaint.

46. Responding to paragraphs 59 through 62 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell received a letter from an incarcerated patient that she had previously treated. To the extent Dr. Mitchell alleges that either Mr. Johnson or Dr. Blanchard failed to respond appropriately when they were informed that Dr. Mitchell had received this letter, those allegations are specifically denied, and Defendant Sanford Clinic denies any and all remaining allegations contained in paragraph 59 through 62 of Plaintiff's Complaint.

47. Defendant Sanford Clinic is without sufficient information to either admit or deny the allegations contained in paragraphs 63 and 64 of Plaintiff's Complaint and therefore denies the same.

48. Responding to paragraph 65 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Blanchard informed Dr. Mitchell on July 31, 2018, that he planned to travel from Bismarck to Sioux Falls to meet with her in person on July 31, 2018.

49. Responding to paragraph 66 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Blanchard was Dr. Mitchell's direct supervisor and that they usually communicated via email, telephone, or video conference, but is without sufficient information to either admit or deny the remaining allegations contained in paragraph 66 of Plaintiff's Complaint and therefore denies the same.

50. Responding to paragraph 67 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell was not provided an agenda for the meeting, but is without sufficient knowledge or information to either admit or deny the remaining allegations contained in paragraph 67 of Plaintiff's Complaint and therefore denies the same.

51. Defendant Sanford Clinic admits the allegations contained in paragraphs 68 and 69 of Plaintiff's Complaint.

52. Responding to paragraphs 70 through 73 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Blanchard discussed with Dr. Mitchell an incident in which Dr. Mitchell had discussed protected health information with a patient in a public area of the clinic and that Dr. Mitchell responded by providing her recollection of the incident, but Defendant Sanford Clinic is without sufficient information to admit or deny the remaining

allegations contained in paragraphs 70 through 73 of Plaintiff's Complaint and therefore denies the same.

53. Responding to paragraphs 74 through 77 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Blanchard discussed with Dr. Mitchell a concern that Dr. Mitchell was obtaining criminal background information regarding patients when that information was not relevant or necessary to their medical care, and that Dr. Mitchell responded that she was aware of clinic staff members conducting such background searches, but that she had only conducted one such search with respect to the sex offender patient who sent her a letter. Defendant Sanford Clinic denies any and all remaining allegations contained in paragraphs 74 through 77 of Plaintiff's Complaint.

54. Responding to paragraph 78 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Blanchard discussed with Dr. Mitchell her decision to intervene in a domestic incident in the clinic parking lot which unnecessarily put herself and other staff members at risk, but denies any and all remaining allegations contained in paragraph 78 of Plaintiff's Complaint.

55. Defendant Sanford Clinic denies the allegations contained in paragraphs 79 through 83 of Plaintiff's Complaint.

56. Responding to paragraph 84 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Blanchard and Ms. Burnley discussed the VITAL Worklife physician referral program with Dr. Mitchell and offered it to her as a potential resource. Defendant Sanford Clinic denies any and all remaining allegations contained in paragraph 84 of Plaintiff's Complaint.

57. Defendant Sanford Clinic denies the allegations contained in paragraph 85 of Plaintiff's Complaint.

58. Responding to paragraph 86 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell was advised that VITAL Worklife was part of Sanford's employee assistance program, but is without sufficient information to admit or deny the remaining allegations contained in paragraph 86 of Plaintiff's Complaint and therefore denies the same.

59. Responding to paragraph 87 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell appeared receptive to, and interested in, a referral to VITAL Worklife, but denies any and all remaining allegations contained in paragraph 87 of Plaintiff's Complaint.

60. Defendant Sanford Clinic denies the allegations contained in paragraphs 88 through 90 of Plaintiff's Complaint.

61. Responding to paragraph 91 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Mr. Johnson was called into the meeting and advised that, on a temporary basis, Dr. Blanchard was going to assist Dr. Mitchell by performing some of the medical director duties. Defendant Sanford Clinic specifically denies that Mr. Johnson was ever informed that Dr. Mitchell was no longer the medical director, and further denies any and all remaining allegations contained in paragraph 91 of Plaintiff's Complaint.

62. Defendant Sanford Clinic denies the allegations contained in paragraph 92 of Plaintiff's Complaint.

63. Responding to paragraphs 93 and 94 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Plaintiff continued to work in the Clinic and treat patients without taking time off from work aside from necessary doctor appointments, but specifically denies that

Plaintiff never sought an accommodation for her pregnancy, and further denies any and all remaining allegations contained in paragraphs 93 and 94 of Plaintiff's Complaint.

64. Responding to paragraphs 95 of Plaintiff's Complaint, Defendant Sanford Clinic states that the Consent for Services form, attached as Exhibit B to Plaintiff's Complaint, speaks for itself. Defendant Sanford Clinic specifically denies that Plaintiff was given a copy of the consent form at this meeting, and is without sufficient knowledge or information to either admit or deny any of the remaining allegations contained in paragraph 95 of Plaintiff's Complaint and therefore denies the same.

65. Responding to paragraphs 96 through 101 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Blanchard reviewed Dr. Mitchell's 2018 performance appraisal with her on or about August 15, 2018 and that the performance appraisal speaks for itself. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny any of the remaining allegations contained in paragraphs 96 through 101 of Plaintiff's Complaint, and therefore denies the same.

66. Responding to paragraph 102 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell informed Dr. Blanchard that a patient had grabbed her face during an examination and that Dr. Blanchard reminded Dr. Mitchell that she should immediately end any examination if any inappropriate contact or other behavior occurs. Defendant Sanford Clinic denies any and all remaining allegations contained in paragraph 102 of Plaintiff's Complaint.

67. Responding to paragraph 103 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that on August 24, 2018 Robin Burnley presented to Dr. Mitchell a consent form for the VITAL Worklife Physician Intervention program, but denies any and all remaining allegations contained in paragraph 103 of Plaintiff's Complaint.

68. Defendant Sanford Clinic denies the allegations contained in paragraph 104 of Plaintiff's Complaint.

69. Responding to paragraphs 105 through 106 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell indicated that she believed that the VITAL Worklife Physician Intervention program was a fitness for duty evaluation and raised concern regarding some of the performance issues that were discussed with her during the July 31, 2018 meeting, but denies any and all remaining allegations contained in paragraphs 105 and 106 of Plaintiff's Complaint.

70. Defendant Sanford Clinic denies the allegations contained in paragraph 107 of Plaintiff's Complaint.

71. Defendant Sanford Clinic admits the allegations contained in paragraph 108 of Plaintiff's Complaint.

72. Responding to paragraph 109 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Blanchard sent a follow up email to Dr. Mitchell on or about August 31, 2018 because Dr. Mitchell did not respond to Ms. Burnley's emails or phone calls regarding VITAL Worklife.

73. Responding to paragraphs 110 and 111 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that on September 4, 2018, Ms. Burnley met in person with Dr. Mitchell and that Dr. Blanchard participated in that meeting via video conference.

74. Defendant Sanford Clinic denies the allegations contained in paragraphs 112 through 115 of Plaintiff's Complaint.

75. Responding to paragraph 116 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that on or about September 4, 2018, Dr. Mitchell attended a medical director

meeting, but is without sufficient knowledge or information to either admit or deny the remaining allegations contained in paragraph 116 of Plaintiff's Complaint since Dr. Mitchell was the only individual outside of IT with access to her Outlook account and therefore denies the same.

76. Defendant Sanford Clinic admits the allegations contained in paragraphs 117 through 119 of Plaintiff's Complaint.

77. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 120 of Plaintiff's Complaint and therefore denies the same.

78. Defendant Sanford Clinic admits the allegations contained in paragraph 121 of Plaintiff's Complaint.

79. Responding to paragraph 122 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that a Sanford security employee prepared a summary of the MOAB safety training he provided and that summary appears as Exhibit D to the Complaint and speaks for itself. Defendant Sanford Clinic denies any and all remaining allegations contained in paragraph 122 of Plaintiff's Complaint.

80. Responding to paragraph 123 of Plaintiff's Complaint, Sanford Clinic admits only that it conducted a prompt and thorough internal investigation of Dr. Mitchell's allegations of harassment and discrimination in accordance with its policies and practices, and that Dr. Mitchell's attorney questioned whether an internal investigation could be conducted fairly, but denies any and all remaining allegations contained in paragraph 123 of Plaintiff's Complaint.

81. Defendant Sanford Clinic admits the allegations contained in paragraphs 124 through 126 of Plaintiff's Complaint.

82. Defendant Sanford Clinic admits the allegations contained in paragraph 127 of Plaintiff's Complaint upon information and belief.

83. Defendant Sanford Clinic admits the allegations contained in paragraph 128 of Plaintiff's Complaint.

84. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 129 of Plaintiff's Complaint and therefore denies the same.

85. Responding to paragraph 130 of Plaintiff's Complaint, this paragraph references a statement counsel made during the course of compromise negotiations and Plaintiff's reference to this statement is a violation of FRE 408. Paragraph 130 should be stricken from Plaintiff's Complaint.

86. Responding to paragraph 131 of Plaintiff's Complaint, this paragraph references a statement counsel made during the course of compromise negotiations and Plaintiff's reference to this statement is a violation of FRE 408. Paragraph 131 should be stricken from Plaintiff's Complaint.

87. Responding to paragraphs 132 and 133 of Plaintiff's Complaint, Defendant Sanford Clinic admits that it did send to Dr. Mitchell the letter that is attached as Exhibit E to the Complaint and that the letter speaks for itself. To the extent Plaintiff alleges that Sanford Health or Sanford Clinic did not appropriately respond to the inappropriate access to Plaintiff's electronic medical record, those allegations are specifically denied, and Sanford denies any and all remaining allegations contained in paragraphs 132 and 133 of Plaintiff's Complaint.

88. Responding to paragraph 134 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell returned to work on April 1, 2019, but denies any and all remaining allegations contained in paragraph 134 of Plaintiff's Complaint.

89. Responding to paragraphs 135 and 136 of Plaintiff's Complaint, Defendant Sanford Clinic admits that on April 1, 2019, Ms. Murdock met with Dr. Mitchell via video conferencing to discuss Sanford Clinic's expectations and that Dr. Mitchell was provided a copy of the letter, which is attached to the Complaint as Exhibit F and speaks for itself. Defendant Sanford Clinic denies any and all remaining allegations contained in paragraphs 135 and 136 of Plaintiff's Complaint.

90. Defendant Sanford Clinic denies the allegations contained in paragraph 137 of Plaintiff's Complaint.

91. Responding to paragraph 138 of Plaintiff's Complaint, Defendant Sanford Clinic states that Exhibit F speaks for itself and Defendant Sanford Clinic denies any and all remaining allegations contained in paragraph 138 of Plaintiff's Complaint.

92. Responding to paragraph 139 of Plaintiff's Complaint, Defendant Sanford Clinic admits that Dr. Mitchell resigned on April 14, 2019 and that her resignation letter is attached as Exhibit G and speaks for itself. Defendant Sanford Clinic specifically denies that Dr. Mitchell was at any time subjected to an intolerable work environment, and further denies any and all remaining allegations contained in paragraph 139 of Plaintiff's Complaint.

93. Defendant Sanford Clinic admits the allegations contained in paragraphs 140 of Plaintiff's Complaint.

94. Defendant Sanford Clinic is without sufficient knowledge or information to either admit or deny the allegations contained in paragraphs 141 and 142 of Plaintiff's Complaint and therefore denies the same.

95. Responding to paragraph 143 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 142 of Plaintiff's Complaint.

96. Paragraphs 144 and 145 of Plaintiff's Complaint contain legal conclusions to which no response is required.

97. Defendant Sanford Clinic denies the allegations contained in paragraphs 146 and 147 of Plaintiff's Complaint.

98. Defendant Sanford Clinic denies the allegations contained in paragraph 148 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

99. Responding to paragraph 149 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 148 of Plaintiff's Complaint.

100. Paragraphs 150 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

101. Defendant Sanford Clinic denies the allegations contained in paragraphs 151 through 153 of Plaintiff's Complaint.

102. Defendant Sanford Clinic denies the allegations contained in paragraph 154 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

103. Responding to paragraph 155 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 154 of Plaintiff's Complaint.

104. Paragraph 156 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

105. Defendant Sanford Clinic denies the allegations contained in paragraphs 157 and 158 of Plaintiff's Complaint.

106. Defendant Sanford Clinic denies the allegations contained in paragraph 159 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

107. Responding to paragraph 160 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 159 of Plaintiff's Complaint.

108. Paragraphs 161 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

109. Defendant Sanford Clinic denies the allegations contained in paragraphs 162 through 164 of Plaintiff's Complaint.

110. Defendant Sanford Clinic denies the allegations contained in paragraph 165 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

111. Responding to paragraph 166 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 165 of Plaintiff's Complaint.

112. Paragraphs 167 and 168 of Plaintiff's Complaint contain legal conclusions to which no response is required.

113. Paragraph 169 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

114. Responding to paragraph 170 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell did not miss any work outside of medical appointments and her maternity leave, but denies any and all remaining allegations contained in paragraph 170 of Plaintiff's Complaint.

115. Defendant Sanford Clinic denies the allegations contained in paragraphs 171 through 174 of Plaintiff's Complaint.

116. Defendant Sanford Clinic denies the allegations contained in paragraph 175 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

117. Responding to paragraph 176 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 175 of Plaintiff's Complaint.

118. Paragraph 177 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

119. Paragraph 178 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

120. Responding to paragraph 179 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell did not miss any work outside of medical appointments and maternity leave, but denies any and all remaining allegations contained in paragraph 179 of Plaintiff's Complaint.

121. Defendant Sanford Clinic denies the allegations contained in paragraphs 180 through 184 of Plaintiff's Complaint.

122. Defendant Sanford Clinic denies the allegations contained in paragraph 185 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

123. Responding to paragraph 186 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 185 of Plaintiff's Complaint.

124. Paragraphs 187 through 191 of Plaintiff's Complaint contain legal conclusions to which no response is required.

125. Responding to paragraph 192 of Plaintiff's Complaint, Defendant Sanford Clinic admits only that Dr. Mitchell raised security concerns, but denies that the workplace was unsafe or that it violated any duty or public policy. Defendant Sanford Clinic denies any and all remaining allegations contained in paragraph 192 of Plaintiff's Complaint.

126. Defendant Sanford Clinic denies the allegations contained in paragraphs 193 through 195 of Plaintiff's Complaint.

127. Defendant Sanford Clinic denies the allegations contained in paragraph 196 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

128. Responding to paragraph 197 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 196 of Plaintiff's Complaint.

129. Paragraph 198 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

130. Defendant Sanford Clinic denies the allegations contained in paragraphs 199 and 200 of Plaintiff's Complaint.

131. Defendant Sanford Clinic denies the allegations contained in paragraph 201 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

132. Responding to paragraph 202 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 201 of Plaintiff's Complaint.

133. Paragraph 203 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

134. Defendant Sanford Clinic denies the allegations contained in paragraphs 204 and 205 of Plaintiff's Complaint.

135. Defendant Sanford Clinic denies the allegations contained in paragraph 206 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

136. Responding to paragraph 207 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 206 of Plaintiff's Complaint.

137. Paragraph 208 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

138. Defendant Sanford Clinic denies the allegations contained in paragraphs 209 and 210 of Plaintiff's Complaint.

139. Defendant Sanford Clinic denies the allegations contained in paragraph 211 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

140. Responding to paragraph 212 of Plaintiff's Complaint, Defendant Sanford Clinic incorporates herein its responses to paragraphs 1 through 211 of Plaintiff's Complaint.

141. Paragraph 213 of Plaintiff's Complaint contains a legal conclusion to which no response is required.

142. Defendant Sanford Clinic denies the allegations contained in paragraphs 214 and 215 of Plaintiff's Complaint.

143. Defendant Sanford Clinic denies the allegations contained in paragraph 216 of Plaintiff's Complaint, including her claimed entitlement to damages set forth therein.

AFFIRMATIVE AND ADDITIONAL DEFENSES

144. Plaintiff's Complaint fails to state facts sufficient to state a claim that would support an award of actual, compensatory, punitive, or liquidated damages against Defendant Sanford Clinic.

145. Plaintiff's Complaint fails for the reason that any alleged action or failure to act on

the part of Defendant Sanford Clinic was not the proximate cause of any alleged injury to Plaintiff.

146. Any employment decisions about which Plaintiff complains were job-related and were based upon legitimate and non-discriminatory, non-retaliatory business-related reasons.

147. To the extent that Plaintiff claims that any decisions related to her employment were due to or motivated by any unlawful purposes, Defendant Sanford Clinic denies that any unlawful purposes were considered, and affirmatively states that Defendant Sanford Clinic would have taken the same actions absent the alleged unlawful purposes.

148. To the extent any alleged intentional discriminatory or retaliatory conduct was committed by Defendant Sanford Clinic's agents (which Defendant Sanford Clinic denies), said conduct was outside the scope of the agent's authority and contrary to Defendant Sanford Clinic's good-faith efforts to comply with the law.

149. Defendant Sanford Clinic, at all times relevant to this action, has acted reasonably and in good faith toward Plaintiff, and in full compliance with applicable laws.

150. Any statements, actions, or inaction on the part of Defendant Sanford Clinic did not constitute disregard for the rights or safety of Plaintiff, and was not otherwise committed with the requisite malice or reckless indifference to Plaintiff's rights to support an award of punitive damages.

151. Plaintiff's claims are barred wholly or in part because Defendant Sanford Clinic exercised reasonable care to prevent harassment and discrimination and Plaintiff unreasonably failed to take advantage of the remedial opportunities provided by Defendant Sanford Clinic.

152. Plaintiff's claims for relief fail, in whole or in part, because she did not engage in any legally cognizable protected activity during employment.

153. Plaintiff's claims are barred to the extent Defendant Sanford Clinic neither knew nor had reason to know of the alleged acts complained of in Plaintiff's Complaint.

154. Defendant Sanford Clinic denies the nature, extent, and duration of Plaintiff's alleged damages and remits Plaintiff to her strict proof thereof.

155. Affirmatively responding, Plaintiff's claim for punitive damages is barred by Defendant Sanford Clinic's good faith efforts to prevent discrimination and/or harassment.

156. Affirmatively responding, Defendant Sanford Clinic alleges that Plaintiff's claim for punitive damages is barred by the due process, equal protection, penalties, and fines and forfeiture clauses of the United States Constitution and/or the South Dakota Constitution.

WHEREFORE, Defendant Sanford Clinic prays that Plaintiff's Complaint be dismissed on the merits and with prejudice and that Defendant Sanford Clinic recover its costs and disbursements herein together with such other and further relief as the Court deems just and equitable.

Dated at Sioux Falls, South Dakota, this 25th day of October, 2019.

EVANS, HAIGH & HINTON, L.L.P.

/s/ Mark J. Arndt

Mark J. Arndt

101 N. Main Avenue, Suite 213

PO Box 2790

Sioux Falls, SD 57101-2790

Telephone: (605) 275-9599

Facsimile: (605) 275-9602

Email: marndt@ehhlawyers.com

Attorneys for Defendant

DEMAND FOR TRIAL BY JURY

Defendant Sanford Medical Center demands trial by jury on all issues of fact.

/s/ Mark J. Arndt

Mark J. Arndt

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Defendant, hereby certifies on the 25th day of October, 2019, I caused the following document:

♦ Answer

to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-mail notice of the electronic filing to the following:

Andrew R. Damgaard
Johnson, Janklow, Abdallah & Reiter, L.L.P.
101 S. Main Avenue, Suite 100
PO Box 2348
Sioux Falls, SD 57101
Email: andy@janklowabdallah.com

Heather R. Springer
Morgan F. Brekke
Woods, Fuller, Shultz & Smith, P.C.
300 S. Phillips Avenue, Suite 300
PO Box 5027
Sioux Falls, SD 57117
Email: heather.springer@woodsfuller.com
morgan.brekke@woodsfuller.com

Attorneys for Plaintiff

on this 25th day of October, 2019.

/s/ Mark J. Arndt

Mark J. Arndt